

COMMISSIONER OF CENTRAL EXCISE, DELHI

v.

INSULATION ELECTRICAL (P) LTD.

(Civil Appeal No. 5943 of 2002)

MARCH 27, 2008

(ASHOK BHAN AND DALVEER BHANDARI, JJ.)

Central Excise Tariff Act, 1985:

Chapter Heading 8708.00 – Parts and accessories of motor vehicles – ‘Rail Assembly Front Seat (omni) Adjuster/ Assembly Slider Seat’ ‘YE-2 Rear Back Lock Assembly’, ‘1000cc Rear Back Lock Assembly’ manufactured by assessee – HELD: Can at best be termed as accessories to motor vehicle classifiable under Chapter Heading 8708.00 – The products are not essential parts of seat and, therefore, not classifiable under Chapter Heading 9401 – A ‘part’ is an essential component of the whole without which the whole cannot function.

Words and Phrases:

Expressions ‘part’ and ‘accessory’ – Difference between in the context of Central Excise Tariff Act, 1985

The assessee was engaged in manufacture of ‘Rail Assembly Front Seat(omni)’ ‘Adjuster, Assembly Slider Seat’ ‘YE-2 Rear Back Lock Assembly’ and ‘1000cc Rear Back Lock Assembly’. In the classification list submitted by the assessee in the year 1996, it classified and the Revenue approved the products as “parts and accessories of motor vehicles” subject to 15% rate of duty under Chapter Heading 8708.00 of the Central Excise Tariff Act, 1985. However, subsequently after a visit to the premises of the assessee, show cause notices were issued stating that the assessee had been misclassifying its products, and the same were classifiable under Chapter

- A Heading 9401.00 as parts of seats subject to 18% duty. The adjudicating authority confirmed the demand of duty and imposed the penalty. The Commissioner of Central Excise (Appeals) upheld the demand of duty but waived the penalty. However, the Customs Excise and Gold
B (Control) Appellate Tribunal set aside the demand holding that the products were classifiable under Chapter Heading 8708.00 and not under Chapter Heading 9401.00.

- In the instant appeal filed by the Revenue, the question for consideration before the Court was: whether
C the products manufactured by the assessee were the integral parts of the seats, as put forth by the department and classifiable under chapter heading 9401.00 or the same were parts and accessories of motor vehicles, as claimed by the assessee and classifiable under chapter
D heading 8708.00?

Dismissing the appeal, the Court

- HELD: 1.1 The 'Rail Assembly Front Seat (Omni)', 'Adjuster/Assembly Slider Seat', 'YE-2 Rear Back Lock
E Assembly' and '1000cc Rear Back Lock Assembly' manufactured by the assessee can at best be termed as accessories to the motor vehicle classifiable under Chapter Heading 8708.00 of the Central Excise Tariff Act, 1985. It is clear that Chapter Heading 8708.00 covers parts
F and accessories of motor vehicles and this chapter heading is wide enough in its scope so as to cover all accessories of motor vehicles whereas Chapter heading 9401.00 covers all type of seats and parts thereof. [para 13 and 20] [632-C, D; 634-C, D]

- G 1.2 Admittedly the assessee was supplying the products manufactured by it to the car manufacturing company. The said company has given a specific part number to the goods in question and issued purchase orders in the name of the assessee. The payment for the
H same was received directly from the car manufacturing

company. Merely supplying the material through the companies which are manufacturing the seats classifiable under chapter heading 9401.00, does not lead to the conclusion that the products in question fall under chapter heading 9401.00. [para 14] [632-E-G] A

2.1 Chapter 9401 covers all types of seats and not only the seats of a car; and a seat is complete even without the rail assembly front seat, adjuster/assembly slider seat or rear back lock assembly. These are not essential parts of the seat. Chapter Heading 9401 covers only the parts of seats and not accessories to seats. A 'part' is an essential component of the whole without which the whole cannot function. The Tribunal rightly held that the products manufactured by the assessee cannot be the 'parts' of seats, as claimed by the revenue. [para 18-19] [633-F-H] B C D

2.2 Chapter heading 8708 covers both the 'parts' as well as 'accessories'. The items manufactured by the assessee are only adjuncts. These are to be affixed on the floor of motor vehicles for adjustment of seats merely to improve the efficiency, and for convenience and comfort of passengers. The seats are complete in themselves without these mechanisms and, therefore, the parts manufactured by the assessee do not merit classification under chapter 9401. Rather, the same would be accessories to the motor vehicle as claimed by the assessee and would merit classification under chapter heading 8708. [para 20] [634-A-C] E F

Mehra Brothers v. Joint commercial Officer reported in 1991 (51) ELT 173(SC); Pragati Silicons Pvt. Ltd. v. Commissioner of Central Excise, Delhi 2007 (211) ELT 534(SC) and Annapurna Carbon Industries Co. v. State of Andhra Pradesh (1976) 2 SCC 273. G

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5943 of 2002. H

A From the final Judgment and Order dated 09.04.2002 of the Customs, Excise and Gold (Control) Tribunal, Delhi in Final Order No. 140/2002-B in Appeal No. E/2199/2001/B

B K. Radhakrishnan, Alka Sharma (for B.V. Balaram Das), for the Appellant.

B Uma Datta for the Respondent.

The Judgment of the Court was delivered by

C **ASHOK BHAN, J.** 1. Revenue has filed this appeal under Section 35-L of the Central Excise Act, 1944 (for short 'the Act') against the judgment and final order dated 9th April, 2002 passed by the Customs, Excise and Gold (Control) Appellate Tribunal, New Delhi (for short 'the Tribunal') in Final Order No.140/2002-B in Appeal No.E/2199/2001/B wherein and D whereby The Tribunal relying upon a judgment of the High Court of Karnataka in the case of *Supreme Motors v. State of Karnataka* has allowed the appeal filed by the assessee-respondent.

E Facts:

E 2. Assessee-respondent (hereinafter referred to as 'the assessee') was holding Central Excise Registration No.19 MOR-13 MOD-III 92 and engaged in the manufacture of Rail Assembly front Seat (Omni), Adjuster Assembly slider seat, YF-2, Rear Back Lock Assembly and 1000 CC Rear Back Lock F Assembly. It submitted its classification list in the year 1986 under Central Excise Tariff Act, 1985 (for short 'the tariff Act') classifying its products under chapter heading 8708.00 as "parts and accessories of motor vehicles" which attracted the 15% G rate of duty. The classification list filed by the assessee was approved.

H 3. Acting on a specific information that the assessee was short paying the excise duty by classifying its products as motor vehicles parts and accessories, the factory premises of the assessee was visited by a team of officers of Central Excise

MOD-III on 8.12.1998. They physically verified the items being manufactured by the assessee. Statement of Shri Ashwani Kumar, authorised signatory of the assessee was recorded under Section 14 of the Act. In his statement, he admitted that they were supplying Rail Assembly Frost Seat Adjuster and Assembly Slider Seat to M/s. Bharat Seats Ltd. and M/s. Krishna Maruti Ltd. which were manufacturing car seats falling under chapter heading 9401.00 and were supplying to M/s. Maruit Udyog Limited.

4. From the information gathered on the inspection of the factory premises of the assessee and the statement of Shri Ashwani Kumar, authorised signatory of the assessee, the department came to the conclusion that the items manufactured by the assessee were classifiable under chapter heading 9401.00 attracting central excise duty at the rate of 18% *ad valorem* and not under chapter heading 8708.00 paying less duty at the rate of 15%. Terming that the assessee had been mis-classifying its products, two show cause notices dated 4.2.1999 and 5.7.1999 were issued to it calling upon it to show cause as to why products manufactured by it as parts and accessories of motor vehicles and classified under chapter heading 8708.00 be not treated as parts of the seats which are classifiable under chapter heading 9401.00 attracting higher rate of duty at the rate of 18% and as to why the differential duty amounting to Rs.9,50,995/- be not demanded and recovered under Rule 9(2) of the Central Excise Rules, 1944 (for short 'the Rules') read with Section 11A of the Act.

5. The adjudicating authority vide its order dated 24.11.1999 held that the goods manufactured by the assessee were integral parts of seats and available in the market as such and confirmed the duty demand of Rs.9,50,995/- and imposed a penalty of Rs.2,00,000/- under Rule 173Q of the Rules and also ordered to charge interest on the differential duty of Rs.9,50,995/-.

6. Being aggrieved against the order of the adjudicating

A authority, assessee filed an appeal before the Commissioner of Central Excise(Appeals). The Commissioner(Appeals) by his order dated 7th August, 2001 upheld the order of the adjudicating authority classifying the goods under chapter heading 9401.00. He, however, waived the penalty of Rs.2,00,000/- imposed on B the assessee.

7. Assessee thereafter filed an appeal before the Tribunal. Tribunal, by the impugned order, has set aside the orders of the authorities below holding that the products manufactured by the assessee are classifiable under chapter heading 8708.00 as C claimed by the assessee and not under chapter heading 9401.00 as put forth by the revenue. Tribunal came to the conclusion that the items manufactured by the assessee are only adjuncts, additions to the seats for the better utilization of the seats for comfort and convenience of the passengers and D they are not essential components or parts of seats. That the seats are complete in themselves without these mechanisms and therefore do not merit classification as parts of seats under Chapter 9401.00. Tribunal relying upon a judgment of this Court in the case of *Mehra Brothers v. Joint commercial Officer reported in 1991 (51) ELT 173(SC)* held that the products E manufactured by the assessee merited classification under chapter heading 8708.00 as "parts and accessories of motor vehicles".

F 8. Hence revenue is before us.

Learned senior counsel appearing for the revenue contends that the products manufactured by the assessee are parts of the seats because assessee was supplying these products to M/s Bharat Seats Limited and M/s Krishna Maruti G Limited which were manufacturing seats classifiable under chapter heading 9401.00.

9. Per contra, counsel appearing for the assessee H contends that the products manufactured by the assessee are not seats or parts of the seats as contemplated under chapter

heading 9401.00. The seat is complete without the said products as rightly concluded by the Tribunal. With regard to rail assembly front seat adjuster/assembly slider seat manufactured by the assessee, it is stated that the item is essentially in the nature of rails made out of iron and steel. These are to be affixed on the floor of motor vehicles. When seats are affixed on these rails, seats can slide back and forth with the operation of a lever forming part of other rail assembly front seat adjuster. This enables the driver or the passenger, to adjust the position of the seat to suit his comfort and convenience. It is stated that such adjustment of seat is merely to improve the efficiency and convenience of the seat and does not form part of the seat. That the seat is complete and fully functional without this rail arrangement. With regard to YE-2 rear back lock assembly, it is stated that the function of this item is to fix the position of the rear seat of the car i.e. whether straight or slanting and this is also an accessory for enabling the passenger to fix the seat in the most comfortable and convenient position. It is contended that lock assembly does not form a part of the car seat at all and the seat is complete without the lock assembly.

10. Counsel for the parties have been heard.

11. From the pleadings of the parties as well as the statements made before us, the point which can be culled out for adjudication is as to whether "the products manufactured by the assessee are the integral parts of the seats, as put forth by the department and classifiable under chapter heading 9401.00 or the same are parts and accessories of motor vehicles, as claimed by the assessee and classifiable under chapter heading 8708.00.

12. Before coming to a conclusion, it would be appropriate to look at the two rival entries falling under chapter Headings 8708 and 9401 of the Act. The same are reproduced below for convenience of discussion:

A	Heading No.	Sub-heading No.	Description of goods	Rate of duty
B	87.08	8708.00	"Parts and accessories of the motor vehicles of heading Nos.87.01 to ' 87.05	15%
C	94.01	9401.00	"Seats [other than those of heading No. 94.02], whether or not convertible into beds and parts thereof.	18%

13. From the bare reading of the two sub-headings, reproduced above, it is clear that Chapter Heading 8708.00 covers parts and accessories of motor vehicles and this chapter heading is wide enough in its scope so as to cover all accessories of motor vehicles whereas Chapter heading 9401.00 covers all type of seats and parts thereof.

14. This is an admitted position that the assessee was supplying the products manufactured by it directly to M/s Maruti Udyog Limited which manufactures cars and not seats. M/s Maruti Udyog Limited has given a specific part number to the goods in question and issued purchase orders in the name of the assessee. However, later on, only invoicing pattern was changed for some goods wherein the assessee received purchase orders directly from M/s Maruti Udyog Limited but invoices were raised to M/s Krishna Maruti Udyog Limited and M/s Bharat Seats Limited just for the sake of convenience and economy. The payment for the same was received directly from M/s Maruti Udyog Limited. Merely supplying the material through M/s Bharat Seats Limited and M/s Krishna Maruti Limited which are manufacturing seats classifiable under chapter heading 9401.00 does not lead to the conclusion that the products in question fall under chapter heading 9401.00.

15. In *Mehra Brothers(supra)*, this court observed in para 6 as follows:

“6. In *Supreme Motors v. State of Karnataka* case(supra), the Karnataka High Court has taken different view. It held that the car seat covers, at best could make the seat more comfortable, but do not serve as aids to the vehicle as a whole, and therefore, they must fall outside the ambit of Entry 73 of the Second Schedule to the Karnataka Sales Tax Act, 1957 and was not exigible to sales tax at 13 per cent. Undoubtedly this ratio would help the appellant. The learned judges laid emphasis thus:—

“Every part is useful to the car for its effective operation. Likewise should be the aid of other accessories in order to fall within the said entry. The accessory to a part which has no convenience of effectiveness to the entire car as such cannot in our opinion fall within Entry 73”.

16. To the same effect are the judgments of this Court in the case of *Pragati Silicons Pvt. Ltd. v. Commissioner of Central Excise, Delhi* reported in 2007 (211) ELT 534(SC) and *Annapurna Carbon Industries Co. v. State of Andhra Pradesh* (1976) 2 SCC 273.

17. After considering in detail, the difference between the ‘accessories’ and ‘parts’, this Court in the case of *Pragati Silicons(supra)* came to the conclusion that ‘accessory’ is something supplementary or subordinate in nature and need not be essential for the actual functioning of the product.

18. Chapter 9401 covers all types of seats and not only the seats of a car and a seat is complete even without the rail assembly front seat, adjuster/assembly slider seat and rear back lock assembly. They are not essential parts of the seat. Chapter heading 9401 covers only the parts of seats and not accessories to the seats. A ‘part’ is an essential component of the whole without which the whole cannot function.

19. We agree with the view taken by the Tribunal that the products manufactured by the assessee cannot be the ‘parts’ of seats, as claimed by the revenue.

A 20. Chapter heading 8708 covers both the 'parts' as well
as 'accessories'. The items manufactured by the assessee are
only adjuncts. These are to be affixed on the floor of motor
vehicles. When seats are affixed on these rails, seats can slide
back and forth with the operation of a lever forming part of other
B rail assembly front seat adjuster. This enables the driver or the
passenger, to adjust the position of the seat to suit his comfort
and convenience. These are merely to improve the efficiency
and convenience of the seat and does not form part of the seat.
C The seats are complete in themselves without these
mechanisms and therefore it cannot be held that the parts
manufactured by the assessee merit classification under chapter
9401. Rather the same would be accessories to the motor
vehicle as claimed by the assessee and would merit
D classification under chapter heading 8708, because they are
fitted in the motor car for adjustment of the seats for the
convenience and comfort of the passengers. The Rail Assembly
front seat (Omni), Adjuster/assembly slider seat, YE-2 rear back
lock assembly and 1000cc rear back lock assembly being
E manufactured by the assessee can at best be termed as
accessories to the motor vehicle for better convenience of the
passengers/drivers travelling in the car.

21. For the reasons stated above, we do not find any merit
in the appeal filed by the revenue and dismiss the same with no
order as to costs.

R.P.

Appeal dismissed.